

SUBCHAPTER V : WASTE TIRE RECYCLING AND ENERGY RECOVERY GRANTS

§330.980. Purpose and Scope.

The purpose of this subchapter is to encourage the recycling of tires in Texas and to encourage owners and operators of waste tire energy recovery facilities to use whole waste tires or shredded tires as fuel. This subchapter describes procedures for announcing, selecting, awarding, and administering grants for scrap tire recycling and scrap tire energy recovery facility retrofitting.

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§330.981. Applicability.

The requirements of this subchapter are applicable to the award and distribution of grant funds authorized or required in the Health and Safety Code, §§361.4772, 361.4774, and 361.4865, which relate to the awarding of grants or financial assistance for waste tire energy recovery and recycling activities.

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§330.982. Authority.

The commission's authority to conduct and manage the activities described in this subchapter is derived from the Solid Waste Disposal Act, Health and Safety Code, Chapter 361.

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§330.983. Definitions of Terms and Abbreviations.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

RFP - Request for Proposals.

Waste tire energy recovery facility - A facility at which whole used or scrap tires or shredded tires are used as a fuel, including:

- (A) cement kilns;
- (B) utility boilers;

- (C) pulp and paper mills;
- (D) cogeneration facilities; or
- (E) other facilities designated by the commission.

Waste tire facility - A facility registered by the commission under the Health and Safety Code, §361.477, at which scrap tires are collected and shredded to facilitate the future extraction of useful materials for recycling, reuse, or energy recovery and are stored in a waste tire storage facility or a facility that recycles, reuses, or recovers the energy from the shredded tire pieces.

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§330.984. Eligible Grant-Supported Activities.

- (a) Grants under this subchapter may be made for the following activities:
 - (1) construction of recycling facilities initiated after January 1, 1994, (including ordering of equipment) that beneficially recycle either whole waste tires or shredded tires;
 - (2) retrofitting carried out after September 1, 1995 by the owner or operator of a registered waste tire energy recovery facility, necessary to enable such facility to use tire shreds as fuel; or
 - (3) retrofitting carried out after September 1, 1995 by the owner or operator of a registered waste tire energy recovery facility necessary to enable such facility to use whole scrap tires as fuel.
- (b) Costs eligible for reimbursement under any of the assistance grants authorized and described in subsection (a) of this section shall be strictly limited to those incurred or to be incurred as necessary to construct or retrofit facilities, including capital investment costs and installation costs. The process for determining allowable retrofitting costs will be specified in grant announcements.
- (c) Waste tire energy recovery facility retrofitting costs eligible for a grant under this subchapter shall include capital investment costs and installation costs of storage and feeding systems and capital investment costs and installation costs of charging systems. In addition, costs for engineering, design, permitting, testing and fees may also be eligible as long as such costs are necessary as determined by the executive director. Capital costs and costs for purchase of continuous emissions monitors and pollution control equipment will also be eligible, if installation of such equipment is required by the commission to enable an existing energy recovery facility to utilize scrap tires as fuel.
- (d) Waste tire recycling facility construction costs eligible for a grant under this subchapter shall include capital investment costs and equipment installation costs.
- (e) Waste tire energy recovery facility retrofitting costs and waste tire recycling facility

construction costs not eligible for a grant under this subchapter shall include costs to:

- (1) operate, repair, or maintain either an existing or a newly constructed (or retrofitted), recycling or energy recovery facility;
- (2) pay any of the grant applicant's salary, fringe benefits, travel, or indirect operating costs;
- (3) purchase supplies, fuel, or office equipment;
- (4) acquire land or an interest in land;
- (5) construct waste disposal facilities or waste disposal facility improvements (Facilities designed to promote or enable the recycling or burning for energy recovery of what would otherwise qualify as waste materials are not considered disposal facilities.);
- (6) prepare, or pay others for the preparation of, final designs or working drawings of any waste disposal facility or waste disposal facility improvements;
- (7) pay for the disposal of any waste material;
- (8) purchase any food, drink, or entertainment;
- (9) pay for lobbying, at any governmental level, either for or against, concerning or related to any proposed legislation or initiative; or
- (10) carry out any activity expressly prohibited by the RFP .

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§330.985. Eligible Applicants.

(a) Applicants may not receive, during any single state fiscal year, more than one grant under this subchapter for any single facility. Separate grant proposals may be submitted for separate facilities, despite common ownership. Evidence of separate facility status shall include, but not be limited to, individual permits or registrations.

(b) To be eligible for a waste tire recycling facility grant, as described in §330.984(a)(1) of this title (relating to Eligible Grant-Supported Activities), an applicant must have:

- (1) either a valid permit or registration for the recycling facility named in the application; or
- (2) have on file with the commission an administratively and technically complete application for such permit or registration; and

(3) shall not seek reimbursement for costs incurred prior to January 1, 1994.

(c) To be eligible for a waste tire energy recovery facility grant, as described in §330.984(a)(2) and (3) of this title (relating to Eligible Grant-Supported Activities), an applicant must:

(1) be either the current owner or operator of an existing waste tire energy recovery facility; or

(2) have, for the facility described in the application, either a valid permit or registration authorizing use of scrap tires (either whole or shredded) as a fuel or must have on file with the commission an administratively and technically complete permit application or registration which, when approved by the commission, will authorize use of scrap tires as fuel; and

(3) be in compliance with the terms and conditions of such permit, authorization, or registration; and

(4) shall not seek reimbursement for costs incurred prior to September 1, 1995.

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§330.986. Additional Recycling Facility Construction Grant Requirements.

(a) This section applies to those grants authorized under the Health and Safety Code, §361.4772, for the purpose of enabling or assisting the construction of waste tire recycling facilities for the recycling of whole waste tires or shredded tires, as further identified in §330.984(a)(1) of this title (relating to Eligible Grant-Supported Activities).

(b) Persons desiring to receive a waste tire recycling facility construction grant under this subchapter, shall submit to the commission, prior to the deadline announced by the commission for such grants in the *Texas Register*, an application utilizing the forms and following the instructions and procedures provided by the commission concerning the completion and filing of such forms.

(c) Recycling facility construction grants shall not be awarded for the manufacture from scrap tires (either whole or shredded) of the following:

(1) powdered rubber;

(2) a tire-derived fuel;

(3) buffing dust;

(4) a retreaded or recapped tire; or

(5) a product that is otherwise ineligible for reimbursement under commission rules.

(d) Persons applying for a recycling facility construction grant under this subchapter shall be required to submit evidence of financial responsibility in an amount adequate to assure proper cleanup and closure of the facility if the recipient anticipates accepting an amount of whole waste tires or shredded tire pieces for storage that exceeds the facility's 30-day processing capacity for such whole or shredded tires.

(e) The commission will require that a grant recipient, after construction is complete and as long as the number of whole used or scrap tires or tire pieces contained in illegal waste tire sites that are identified on the commission's Priority Enforcement List exceeds 2.5 million tires for more than 60 consecutive days, assure that at least 15% but not more than 30% of the scrap tires processed by the plant each month will originate from sites on the Priority Enforcement List.

(f) Persons who apply for funding under this subchapter must agree, as a condition to receiving grant funding, to perform community service on an annual basis.

(g) As a part of the application process, an applicant shall submit documentation sufficient to verify the following:

(1) that when construction is complete, the product to be manufactured on-site is comprised of a minimum of 80% Texas scrap tires, pursuant to §330.874(c) of this title (relating to WTRF Grants); and

(2) that there is an identified and verifiable end market for the items or material manufactured.

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§330.987. Additional Requirements for Waste Tire Energy Recovery Facility Grants for Tire Shred Users.

(a) This section applies only to grants issued to enable registered waste tire energy recovery facility owners or operators to retrofit their facilities to use tire shreds as fuel.

(b) Persons desiring to receive a waste tire energy recovery facility retrofitting grant under this section shall submit to the commission, within the time frames established and periodically announced by the commission, an application utilizing the forms and following the instructions and procedures provided by the commission concerning the completion and filing of such forms.

(c) The commission may require that a grant recipient, after plant retrofitting is complete and as long as the number of whole used or scrap tires or tire pieces contained in illegal waste tire sites that are identified on the commission's Priority Enforcement List exceeds 2.5 million tires for more than 60 consecutive days, assure that at least 15% but not more than 30% of the scrap tires processed by the plant each month will originate from sites on the Priority Enforcement List.

(d) Persons who apply for funding under this subchapter must agree, as a condition to receiving

grant funding, to perform community service on an annual basis.

(e) A person receiving a waste tire energy recovery facility retrofitting grant under the Health and Safety Code, §361.4865, may not apply for or receive a reimbursement for whole tires used as fuel at the facility.

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§330.988. Additional Requirements for Waste Tire Energy Recovery Facility Grants for Whole Tire Users.

(a) This section applies only to grants issued to enable registered waste tire energy recovery facility owners or operators to retrofit their facilities to use whole tires as fuel.

(b) Persons desiring to receive a waste tire energy recovery facility retrofitting grant under this section shall submit to the commission, within the time frames established and periodically announced by the commission, an application utilizing the forms and following the instructions and procedures provided by the commission concerning the completion and filing of such forms.

(c) The commission may require that a grant recipient, after plant retrofitting is complete and as long as the number of whole used or scrap tires or tire pieces contained in illegal waste tire sites that are identified on the commission's Priority Enforcement List exceeds 2.5 million tires for more than 60 consecutive days, assure that at least 15% but not more than 30% of the scrap tires processed by the plant each month will originate from sites on the Priority Enforcement List.

(d) Persons who apply for funding under this subchapter must agree, as a condition to receiving grant funding, to perform community service on an annual basis.

(e) A person receiving a waste tire energy recovery facility retrofitting grant under the Health and Safety Code, §361.4865, may not apply for or receive a reimbursement for whole tires used as fuel at the facility.

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§330.989. Grant Announcement and Recipient Selection.

(a) The commission shall announce grant funds, select grant recipients, and award assistance grants under this subchapter utilizing a Request for Proposals (RFP). Under the RFP process, the commission will:

(1) Publish a formal notice in the *Texas Register* inviting eligible applicants to submit to the commission, by an announced due date, written proposals for funding support, together with a completed application form and other RFP-specified materials or resolutions;

(2) Make available, upon request, application forms and instructions, together with the

current RFP document which sets forth the established minimum requirements and criteria for application acceptance and defines the selection criteria to be used by the commission in determining grant recipients and making the subsequent grant awards;

(3) Accept applications, prior to the RFP-specified deadline, and process for eligibility determination and selection/funding, ranking those applications which meet the minimum requirements specified in the RFP; and

(4) Select projects for grant award on a competitive basis in accordance with the formal screening and selection criteria set forth in the RFP.

(b) All grant proposals/applications will be reviewed and processed by the commission's staff to ensure compliance with the requirements of this subchapter, the appropriate RFP, and those mandates set forth in the Health and Safety Code, Chapter 361. The applications may also be reviewed and considered by other public agencies or organizations who have specific responsibilities to review, comment on, or coordinate the selection and/or awarding of state grants.

(c) All proposals received by the deadline stated in the RFP will be evaluated by TNRCC staff and ranked on a point system. Subject to availability of funds and number of eligible applicants, applicants may receive only a portion of, or none of, the funds requested.

(1) The factors to be used to evaluate and rank proposals for construction grants are as follows:

(A) completeness and adequacy of the proposal;

(B) adequacy of the resolution accompanying the proposal, which, at a minimum, certifies representative authorization and which may contain other certifications as required by the RFP;

(C) total plant capacity, as measured by the maximum number of used/scrap tires per month that the facility can remove from the waste stream and convert into useable and saleable products, regardless of whether the products qualify the facility for reimbursement of construction costs pursuant to §330.986 of this title (relating to Additional Recycling Facility Construction Grant Requirements);

(D) monthly recycling capacity, as measured by the number of used/scrap tires that a facility can remove from the waste stream on a monthly basis and convert into items that qualify for reimbursement of construction costs pursuant to §330.986 of this title;

(E) success of project financing, including, but not limited to, availability, extent, commitment and stability of project financing;

(F) success of product marketing, including, but not limited to, firm markets for products manufactured from used/scrap tires, as evidenced by binding contracts;

(G) facility completion and/or production time frame;

(H) facility cost effectiveness, as measured by the ratio of eligible reimbursable costs requested to the monthly recycling capacity of the facility in tons-per-month;

(I) facility economy and/or simplicity, including, but not limited to, evaluation of the facility's costs associated with, and loss of productivity necessitated by, breakdown, repair and/or maintenance;

(J) facility flexibility, as measured by a facility's adaptability to changing end-use markets;

(K) community support; and

(L) other factors deemed necessary by the commission.

(2) The factors to be used to evaluate and rank proposals for retrofitting grants are as follows:

(A) completeness and adequacy of the proposal;

(B) adequacy of the resolution accompanying the proposal, which, at a minimum, certifies representative authorization and which may contain other certifications as required by the RFP;

(C) total tire fuel capacity, as determined by the maximum amount of sustained tire fuel use to be expected if the plant is operated at full capacity, using the optimum amount of tire-derived fuel in the fuel mix;

(D) monthly rate of tire fuel use, as measured by the number of used/scrap tires that a facility can remove from the waste stream on a monthly basis by converting the tires to energy;

(E) success of project financing, including, but not limited to, availability, extent, commitment and stability of project financing;

(F) success of product marketing, including, but not limited to, firm markets for the energy or products produced from energy recovery of used/scrap tires, as evidenced by binding contracts;

(G) facility completion and/or production time frame;

(H) facility cost effectiveness, as measured by the ratio of eligible reimbursable costs requested to the monthly amount of tire-derived fuel capacity of the facility in tons-per-month;

(I) facility economy and/or simplicity, including, but not limited to, evaluation of the facility's costs associated with, and loss of productivity necessitated by, breakdown, repair and/or maintenance;

(J) facility flexibility, as measured by a facility's adaptability to changing end-use markets;

(K) community support; and

(L) other factors deemed necessary by the commission.

(d) Applicants selected to receive tire recycling or energy recovery retrofitting assistance grants under this subchapter, will be required to enter into a written contract with the commission as a condition to receiving support. The contracts will indicate the amount and type of support, establish time frames and/or deadlines for completing grant-supported activities and for expending grant-provided funds, describe reporting requirements and payment procedures, and contain other standard contract conditions.

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